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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,810	03/26/2004	Hiroshi Ikegami	040894-7020	7939
9629	7590	10/30/2006	EXAMINER	
MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004				BURCH, MELODY M
ART UNIT		PAPER NUMBER		
				3683

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/809,810	IKEGAMI ET AL.
	Examiner	Art Unit
	Melody M. Burch	3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 August 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 3-19 is/are pending in the application.
- 4a) Of the above claim(s) 18 and 19 is/are withdrawn from consideration.
- 5) Claim(s) 8-12 is/are allowed.
- 6) Claim(s) 1,6,7,13 and 17 is/are rejected.
- 7) Claim(s) 3-5 and 14-16 is/are objected to.
- 8) Claim(s) 1 and 3-19 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____.                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species B and Group I in the reply filed on 2/28/05 is acknowledged.
2. Claims 18 and 19 have withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/28/05.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 6, 7, 13, and 17 are rejected under 35 U.S.C. 102(e1) as being anticipated by US Patent 2005/0145448 to Watanabe et al.

Re: claim 1. Watanabe et al. show in figures 9 and 10 a brake operating apparatus of a brake apparatus for restricting rotation of a rotating member 26 comprising: an operating lever 54' operably supported in a movable range including a first position shown in figure 9 permitting the rotating member to rotate regularly and rotate reversely and a second position shown in figure 10 restricting only one of regular

rotation and reverse rotation or particularly rotation in the direction of "L" of the rotating member and urged from the first position to the second position in a normal state or particularly in a normal or energized state of element 72, and an operation restricting portion 57 contactable with the operating lever at the first position for restricting a movement of the operating lever reaching the second position as discussed in paragraph [0060], a supporting member 70 for operably supporting the operating lever, a contact member 73 contactable with the operating lever, and an urging member 72 for urging the contact member to the operating lever wherein the operating lever comprises an operation restricting member 71 for contacting with the contact member via intervening elements at the first position as shown in figure 9 to restrict movement of the operating lever reaching the second position.

Re: claims 6 and 7. Watanabe et al. show in figures 9 and 10 a brake operating apparatus of a brake apparatus for restricting rotation of a rotating member comprising: an operating lever 57 for operating a brake force in accordance with an operating amount thereof to the rotating member when the operating lever is operated in a predetermined direction, a one way clutch apparatus 54' for permitting only to operate the operating lever operated in the predetermined direction and holding the operating lever at a position in accordance with the operating amount, a release apparatus 71,73 for releasing an operation of the operating lever by the one way clutch apparatus from being restricted, and an operating portion 72, for operating the release apparatus provided at an arm 10 extended to a position capable of being gripped along with the

operating lever in operating the operating lever to operate in the predetermined direction.

Re: claims 13 and 17. Watanabe et al. show in figures 9 and 10 a brake operating apparatus comprising: an operating lever 54' for operating a brake apparatus provided at a vehicle and a supporting member 70 for pivotably supporting the operating lever, wherein the operating lever is provided to the vehicle via the supporting member, wherein the supporting member comprises: a ring-like connecting portion or the circumference at the end of element 70 opposite the end shown connected to element 54' outwardly fit to a first frame extended in a predetermined direction of the vehicle and a pivoting movement restricting portion or the circumference of element 70 contacting and shown within element 54', contactable with a second frame extended in a direction different from a direction of the first frame, for restricting pivoting movement of the supporting member around an axis of the first frame by way of frictional contact, as broadly recited. With respect to claim 17, the handle may be one of elements 57, as broadly recited.

***Allowable Subject Matter***

5. Claims 3-5, 14, 15, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 8-12 are allowed.

***Response to Arguments***

7. Applicant's arguments filed 8/11/06 have been fully considered but they are not persuasive.

With regards to amended claim 1, Applicant argues that Watanabe lacks the limitation wherein the "operating lever comprises an operation restricting member for contacting with the contact member." Examiner notes that in another perspective of Watanabe the operating lever comprises an operation restricting member 71 for contacting with the contact member 73 *via intervening elements* at the first position as shown in figure 9 to restrict movement of the operating lever reaching the second position. Examiner maintains that nothing in the claim language precludes indirect contact between the operation restricting member and the contact member.

With regards to claim 6, Applicant argues that the "one-way clutch apparatus does not permit the operating lever 54' only to operate... in the predetermined direction." Examiner notes that in another perspective of Watanabe the operating lever may be represented by element 57 since a lever is defined as a projecting piece by which a mechanism is operated or adjusted (See Webster's Collegiate Dictionary 10<sup>th</sup> Edition) and the one-way clutch may be represented by element 54'. From this perspective of Watanabe the one-way clutch 54' operates the operating lever 57 only to operate in the predetermined direction as claimed and as suggested by Applicant in lines 1-2 of pg. 12 of the Remarks.

Finally, with regards to claim 13, Applicant argues that the "ring-like connecting portion" is not shown or identified in Watanabe and that it is "simply imagined by the

Examiner:" Examiner explained in paragraph 2 of the Office action that the ring-like connecting portion was interpreted as the circumference near the end of the rod 70 that is opposite the end shown in figures 9 and 10. Examiner notes that element 70 as a whole is used to pivotally *connect* element 54' and that the circumference of the rod is a *portion* of the rod that is "*ring-like*." Therefore, Examiner maintains that, as broadly recited, the circumference near the end of the rod 70 may properly be considered a *ring-like connecting portion*.

Accordingly, the rejections have been maintained.

### **Conclusion**

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmbr  
October 26, 2006

*Melody M. Burch*  
**Melody M. Burch**  
**Primary Examiner**  
**Art Unit 3683**

*10/26/06*